

Testimony of Anne Milgram, State of New Jersey: May 22, 2007

**Testimony of
Anne Milgram
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**before the
Environmental Protection Agency**

**Public Hearing, May 22, 2007
California State Motor Vehicle Pollution Control Standards;
Request for Waiver of Federal Preemption**

My name is Anne Milgram, and I am the First Assistant Attorney General for the State of New Jersey. Thank you for this opportunity to testify on behalf of the State of New Jersey and our citizens. I am here today to urge you to grant the California Air Resources Board's waiver request under the Clean Air Act so that California may enact its greenhouse gas emission regulations for passenger cars, light-duty trucks and medium-duty passenger vehicles beginning with the 2009 model year. The reasons why EPA should -- and must -- grant California's request as quickly as possible are compelling: there is no mistaking the threats of global

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warming and the health hazards caused by ozone pollution. As the Supreme Court last month acknowledged in Massachusetts v. EPA, the harms associated with global warming are serious and well recognized. Based on this and other findings, the Supreme Court ruled that greenhouse gases are “air pollutants” under the Clean Air Act. Yet there are no federal standards as protective as California’s—in fact there are no federal standards whatsoever—regulating greenhouse gas emissions from motor vehicles. California’s proposed greenhouse gas emission standards thus are necessary to meet compelling and extraordinary conditions, and pursuant to Section 209(b) of the Clean Air Act EPA accordingly must grant California’s waiver request. Granting a waiver also would be in line with the President’s Executive Order issued this month which provides that it is the policy of the United States to protect the environment with respect to greenhouse gas

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emissions from motor vehicles.

New Jersey is proud to be doing its part to address the threats of global warming, which the State is experiencing in a very real and frightening way, and now urges EPA to do its part. By granting California's request without delay, not only California, but 11 other states, including New Jersey, that have adopted the greenhouse gas emission standards in California's low emission vehicle, or LEV II, program, will be able to move forward in addressing the problem of global warming.

New Jersey will be particularly and directly affected by EPA's action on California's waiver request. The issue is two-fold: global warming and ozone pollution. Global warming is having a serious impact on New Jersey's public health, environment and economy in several ways.

First, the effects on New Jersey's natural resources. New

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Jersey has 130 miles of highly populated coastline as well as acres of coastal salt marshes and tidal flats, coastal wetlands, and tidal freshwater wetlands. These areas are highly vulnerable to the predicted sea level rise from global warming. Rising seas would inundate many acres of New Jersey's remaining coastal salt marshes and tidal flats that provide flood protection, water quality benefits, and habitat for native species. Sea level rise would alter flooding and salinity of the State's coastal wetlands, which are among the largest, most productive, and most diverse in the mid-Atlantic region, with substantial adverse impacts on wildlife and fisheries. Loss of tidal freshwater wetlands would be especially harmful to foraging grounds for wading birds. Finally, sea level rise risks chronic flooding within this century, and sections of the State's highly developed coastline could be submerged by rising sea levels. To protect the State's open coast against the rise in sea level, New

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Jersey will spend between approximately one and 4.3 billion dollars in beach replenishment compared with an estimated \$158 million in a scenario without sea level rise.

Second, higher temperatures and increased frequency of heat waves due to global warming also may increase the number of heat-related deaths and the incidence of heat-related illnesses. Climate change models project a significant increase in the number of days above 90 degrees Fahrenheit in New Jersey, which will increase heat stress, particularly for vulnerable urban populations such as the elderly and urban poor. An increase in temperature also means an increase in daily peak electricity load for air conditioning, further increasing greenhouse gas emissions and emissions of other air and water pollutants and exacerbating the already severe stress that is on the region's electric power supply infrastructure. The Northeast blackout of 2003—the largest blackout in North American

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history—shows the vulnerability of our power grid under increased energy demands. Moreover, warmer and wetter conditions will increase mosquito and tick populations and their habitats, thereby increasing the transmission of such serious diseases as malaria, Eastern equine encephalitis, West Nile virus, and Lyme disease.

Global warming will do more than add a few degrees to historic average temperatures. High temperatures result in increased ozone levels, a pressing concern for New Jersey. As you know, ground level ozone, commonly known as smog, forms when pollutants such as nitrogen oxides and volatile organic compounds from sources including automobiles chemically react in the presence of sunshine and high temperatures. In January 2004, finding that a significant percentage of smog-forming emissions and airborne cancer risk comes from vehicle emissions New Jersey passed legislation requiring adoption of California's LEV II program to

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reduce emissions of ozone precursors and greenhouse gases. Our legislature recognized the health and environmental benefits that would result and knew that adopting the LEV II program would help New Jersey meet the national health-based standards for ozone. In the summer of 2002, New Jersey had the highest number of smog violations per monitoring station in the nation. Ozone concentrations throughout the *entire* state of New Jersey exceed current national health-based standards. This is a serious concern for the health of the citizens of New Jersey: ground-level ozone has been shown to aggravate respiratory illnesses such as asthma and bronchitis, reduce lung function, and induce respiratory inflammation. In other words, smog impacts our ability to breathe, the most basic function of survival.

Under the Clean Air Act and EPA regulations, New Jersey must attain the ambient air quality standards in three years -- by

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June 2010. The State Implementation Plan that New Jersey submitted to EPA for approval included program regulations amending New Jersey's low emission vehicle program to be identical with California's amended LEV II program (as the Clean Air Act itself requires). Although EPA proposed to approve a portion of New Jersey's program that is identical to the California standards for which a waiver has been granted, EPA did *not* propose to approve the part of New Jersey's program for which a waiver has *not* been granted -- the greenhouse gas emissions component of its LEV II program that is in front of EPA now. Granting this waiver request, therefore, has a direct impact on New Jersey's own regulatory program for greenhouse gas emission standards. The need for reducing these standards is clear: motor vehicles are a significant source of greenhouse gas emissions, and global warming increases ozone pollution. As of 2003, the transportation sector

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accounted for 37% of New Jersey's greenhouse gas emissions -- and these emissions will continue to increase with the population of New Jersey. Our State is already the most densely populated state in the *nation* with almost 9 million residents, and is projected to increase by another 1.2 million people in the next decade.

New Jersey is firmly committed to continuing to aggressively attack the mounting problem of global warming. For example, this year, New Jersey's Governor signed an Executive Order that seeks by 2020 to reduce greenhouse gas emissions to 1990 levels, or by approximately 20%, and calls for a total 80% reduction below 2006 levels by 2050. Other actions taken by New Jersey include:

- participation in the Regional Greenhouse Gas Initiative (RGGI), a cooperative effort of Northeastern and Mid-Atlantic states to reduce carbon dioxide emissions from electric power plants by first stabilizing CO₂ emissions from the region's

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power plants at approximately current levels from 2009 to 2015, and then reducing emissions by 2019 by 10%;

- embarking, as part of the State's Energy Master Plan, on a path to generate 20% of the State's energy from low-carbon renewable sources, such as solar and wind power, by 2020.

New Jersey already is proceeding with an offshore wind energy pilot study.

- adoption of comprehensive appliance and equipment energy efficiency standards. New Jersey is spending nearly \$145 million each year in renewable energy and energy efficiency programs, and is looking to become the site of smart grid pilot projects to allow the use of cleaner and more decentralized sources of power, such as fuel cells and solar panels.

But despite New Jersey's and other states' commitment to tackling the problem of global warming, a similar commitment by

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the federal government is critical. If EPA grants California's current waiver request, at least one-third--and probably much more--of the nationwide fleet of new vehicles will significantly reduce their greenhouse gas emissions. Automobile makers will be encouraged to build cleaner gasoline-powered cars. These clean cars should be and will be brought to New Jersey and numerous other states if California's waiver request is granted. The problem of global warming is real and EPA must do what it can to help combat this issue.

It is my honor to speak for the State of New Jersey in urging EPA to grant California's waiver request so that we can all move forward in combating the mounting problem of global warming, one step at a time.